

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

## PCT

**Translation**

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing **See Form PCT/ISA/210**  
(day/month/year) **(sheet 2)**

Applicant's or agent's file reference

**F1D1081B1W01**

**FOR FURTHER ACTION**

See paragraph 2 below

International application No.

**PCT/FR2004/002518**

International filing date (day/month/year)

**06.10.2004**

Priority date (day/month/year)

**06.10.2003**

International Patent Classification (IPC) or both national classification and IPC

**A61K7/40, A61K7/48**

Applicant

**LABORATOIRE DE DERMO-COSMETIQUE ANIMALE (L.D.C.A) SAS**

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

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Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.  
☐ This opinion has been established on the basis of a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material  
☐ a sequence listing  
☐ table(s) related to the sequence listing
  - b. format of material  
☐ in written format  
☐ in computer readable form
  - c. time of filing/furnishing  
☐ contained in the international application as filed.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims		YES
	Claims	1-14	NO
Inventive step (IS)	Claims		YES
	Claims	1-14	NO
Industrial applicability (IA)	Claims	1-14	YES
	Claims		NO

2. Citations and explanations:

- 1 Reference is made to the following documents in the present notification:
- D1: WO 02/067878 A (SKINCEUTICALS INC) 6 September 2002 (2002-09-06)
- D2: DATABASE WPI Derwent Publications Ltd., London, GB;  
AN 1996-220169 XP002280942 VOLFENZONI I ET AL.: "Face cream"  
&; RU 2 043 764 C (SYNTH.NAT.FRAGRANCES RES. INST.) 20  
September 1995 (1995-09-20)
- D3: EP 0 278 809 A (ROCHAS PARFUMS) 17 August 1988 (1988-08-17)
- D4: EP 0 900 561 A (SHISEIDO CO LTD) 10 March 1999 (1999-03-10)
- D5: FR 2 681 783 A (BOURJOIS SA) 2 April 1993 (1993-04-02)
- D6: PEPE R C, ET AL (EDS.): International Cosmetic Ingredient  
Dictionary and Handbook, Vol. 1" 2002, COSMETIC, TOILETRY AND  
FRAGRANCE ASSOCIATION, WASHINGTON DC, USA, XP002280940
- D7: NN: "Definitionen und Literatur" EAU DE COLOGNE, [Online]  
page 1, XP002280937  
Extracted from the Internet: URL: <http://www.eau-de-cologne.com/literatur.html>;
- D8: NN: "Canna Body Deo" HANF INFO, [Online] page 1, XP002280938  
Extracted from the Internet: URL: <http://www.chanvre-info.ch/shop/index.php?pro=043004&cat=4>;
- D9: NATURPRÄPARATE G. DIETERICH GMBH: "Franzbranntwein - Gel -  
Mückenbalsam" HOLZHACKER, [Online] pages 1-3, XP002280939  
Extracted from the Internet:  
URL: <http://www.holzhacker.de/produkte/sortiment/Franz-branntwein/620191-detail.html>.

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- 2 The present application fails to comply with the requirements of PCT Article 33(1) since the subject matter of claim 1 does not meet the requirement of novelty defined in PCT Article 33(2):  
features a)=solvent vector, b)=complex of essential oils.
- i) D1 (page 10, example 2) describes a topical composition containing extracts of "milk" thistle: a)=ethoxydiglycol, propylene glycol, b)=essential oils of ylang ylang, geranium, rose, rose absolute, camomile.  
In addition, the composition of example 2 contains grapeseed oil, sunflower oil, sesame oil and soybean oil containing polyunsaturated essential fatty acids, cucumber extract, green tea extract, biosaccharide gum, nylon-12 and alpha-tocopherol.
- ii) D2 (abstract) discloses a topical composition containing a) ethanol, b) essential oil of hyssop and also a "fragrant agent", olive oil, polyvinylpyrrolidone, thickener, a nut leaf extract, lanolin, saturated fatty acid esters, and kedrov balm.
- iii) D3 (example 2, pages 5-6; example 6, page 8; example 8, page 9) discloses cosmetic compositions containing an extract of *Silybum marianum* fruits ("hawthorn", "Sauerdorn", "epine-vinette") called "Skinavenger TM", which is a mixture of extract of *Silybum marianum* fruits, and b)=triterpenes of essential oils, flavonoids, alpha-tocopherol, and borage oil. In examples 1 and 2, the "Skinavenger" is accompanied by a)=propylene glycol, b)=fragrance, and shea butter, bisabolol, hyaluronic acid, and carboxymethylcellulose. Example 6 and example 8 contain "Skinavenger", propylene glycol, an "aromatic composition" and evening primrose oil.
- iv) D4 (examples 2, 3, 6, 8; pages 9-11, 13) describes compositions for the promotion of collagen production with an oak extract.  
Example 2 contains a)=propylene glycol, ethanol,

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b)=fragrance.

Example 3 contains a)=acetone, b)=fragrance.

Example 6 contains a)=ethanol, dipropylene glycol, methanol,  
b)=fragrance.

Example 8 contains a)=dipropylene glycol, acetone, ethanol,  
b)=fragrance, in addition to olive oil, tocopherol and  
polyvinyl alcohol.

v) D5 (tables I-III, pages 6-8) describes a mixture of plant  
oils rich in essential fatty acids (borage oil, woad oil,  
rapeseed oil, *Sisymbrium* oil) and, subsequently, cosmetic  
compositions containing them (example II, tables IV-VI, pages  
9-13). These compositions contain a)=solvents such as  
propylene glycol, glycerol or ethanol, b)=fragrances, and, in  
addition, allantoin, bisabolol and thickeners.

vi) The "International Cosmetic Ingredient Dictionary and  
Handbook, Vol. 1" is cited as D6, listing a multitude of  
commercial plant extracts (extracts of essential oils and  
fruits) in which ethoxydiglycol is used as solvent.  
In addition, ethoxydiglycol is disclosed as a common  
ingredient of fragrances.

vii) D7 demonstrates that a conventional Eau de Cologne  
anticipates the subject matter of claim 1: a)=ethanol,  
b)=citrus fruit oils.

viii) The deodorant described in D8 and containing a)=ethanol,  
b)=hemp essential oil, and "sativa" fragrance (with hemp oil,  
plant extracts) also anticipates the subject matter of  
claim 1.

ix) The "alcoholic liniment - gel - mosquito balm" compositions  
of D9 also anticipate the subject matter of claim 1:  
a)=ethanol, b)=extracts of arnica, (essential) oil of fir,  
menthol, camphor. The "gel" contains a gelling agent, the  
balm contains a calmant.

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3	DEPENDENT CLAIMS 2-14
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	<p>The claims do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and inventive step (PCT Article 33(2) and (3)).</p>
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Box No. VIII      Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1.      References to claim 4 or 7 introduce a lack of clarity and therefore contravene PCT Article 6: Claims 4 and 7 containing the term "*consisting of*" are to be interpreted "with exclusive definition".
2.      In claim 3 or 6, the reference to the preceding claim (claims 2 and 5 respectively) is contradictory.
3.      In claim 3, the substances 2-pyrrolidone and N-methyl-pyrrolidone do not represent "organic solvents" as claimed.
4.      The reference to the description in claim 12 (page 16, lines 2-3) contravenes PCT Article 6.